

EXHIBIT A
CITY OF NETTLETON

V.

CHARLOTTE SMITH

PUBLIC PROFANITY TRIAL TRANSCRIPTION

As transcribed by:
Stephanie M. Johnson

Gerry Turner: That is the Affidavit I signed inaudible.

Mac McAuley: Okay. Can you tell the Court, in your own words, what lead up to you placing Ms. Smith under arrest and bringing this charge.

Gerry Turner: I had responded, at Dollar General, to a disturbance there. After the parties were separated I was in the process of gathering information from Ms. Smith. Inaudible began to question why wasn't I going to arrest someone. I tried to explaining to her how an Affidavit works. She told me she didn't need me to explain it to her. I told her I was going to anyway. At that time, she said, "You don't have to explain shit to me." At that time, she was placed under arrest.

Mac McAuley: Okay, so you responded to a disturbance type call. Did any other officers accompany you on this call?

Gerry Turner: After the fact, there was back-up dispatched to inaudible.

Mac McAuley: Could you describe what the situation was like when you first arrived to Dollar General Officer?

Gerry Turner: Extremely tense. There were two parties, one of the employees and another lady involved in an altercation.

Mac McAuley: How many individuals were present on the scene when you arrived?

Inaudible

Mac McAuley: Was it more than five, less than five?

Gerry Turner: More than five I would say, all over the parking lot, in all, I would say fifteen, at least.

Mac McAuley: Okay. So when you arrived was Ms. Smith present when you arrived?

Gerry Turner: I couldn't say at the time because at first she came into it after the fact, you know.

Mac McAuley: What is your normal procedure, Officer, when you arrive in response to a disturbance type complaint and there are

numerous individuals there on the scene? What is your normal procedure or what do you undertake to do initially?

Gerry Turner: Generally, I start to separate all the parties inaudible first.

Mac McAuley: Is that part of how you were investigating this matter?

Gerry Turner: Yes.

Mac McAuley: Okay. And again, once you arrived on the scene what did you do initially as far as you said you separated the parties?

Gerry Turner: Well after I got the two parties separated, both parties, I explained to them that if they wanted to sign an Affidavit they would have to come to City Hall the following day to do that. I had gathered one party's information inaudible went to the other party involved to get her information when Ms. Smith came over.

Mac McAuley: Okay. How long have you been a law enforcement officer?

Gerry Turner: I started in 1998.

Mac McAuley: Okay. Have you responded to these type complaints in the past?

Gerry Turner: Yes sir.

Mac McAuley: How would you describe, as far as emotions, how would you describe the scene?

Gerry Turner: It was pretty chaotic. It escalated to the point that I had to call for back-up. Inaudible.

Mac McAuley: When did you first become aware of Ms. Smith's presence there at the store?

Gerry Turner: When I was interviewing one of the parties involved, I don't remember her name now, but then Ms. Smith approached and questioned why I wouldn't make an arrest?

Mac McAuley: Was Ms. Smith one of the parties involved in this altercation?

Gerry Turner: I don't believe she was.

Mac McAuley: Okay. So she approached you and she asked you some questions.

Gerry Turner: She asked something of the nature of was I going to arrest someone that day. I said I wasn't. She asked why. I tell her because I didn't witness anything, that that would be up to the party to sign Affidavits. She continued to question me. That is the exact statement I told her, I told her let me explain to you what an Affidavit is. She said I work for the State, I don't need you to explain to me what an Affidavit is. I know what an Affidavit is. I said obviously, you don't. I'll explain it to you. At that time, that is when she said that, and at that time I placed her under arrest.

Mac McAuley: The words here on the Affidavit she advised you that you wouldn't telling me shit. Was that the words that she used?

Gerry Turner: That's the words.

Mac McAuley: What happened next?

Gerry Turner: At that point I told her she was under arrest. I grabbed her by the wrists and inaudible put her in the car. That's when a group of people that was there in the parking lot inaudible I began to scream at them. They were all screaming, hooping, and hollering. I told them to get back multiple times. Finally, I had to pull my OC Spray inaudible.

Mac McAuley: Let me ask you, At the particular point in time when Ms. Smith uttered these words to you, had you taken control of the scene at that time?

Gerry Turner: Yeah.

Mac McAuley: Was everything under control? Were parties still yapping?

Gerry Turner: Well it was still tense in that situation inaudible. The girl that was involved in the altercation was still pretty bent out of shape. For some reason, it turned her animosity towards me. You know, she was pretty bent out of shape. Inaudible had to tell people multiple times to calm down, be quiet. Inaudible going to jail. I wouldn't say I was fully under control because nobody was really cooperating.

Mac McAuley: Still possibly a volatile situation?

Gerry Turner: Inaudible certainly.

Mac McAuley: After Ms. Smith made these, directed these statements to you, what, if anything, did you do next?

Gerry Turner: Well, at that point I told her inaudible come out of her mouth, there were children standing around. I was not going sit there and listen to that kind of language with all those kids out there. As soon as it came out of her mouth, I told her she was under arrest. Inaudible grabbed her wrists she began to pull back inaudible placed her on the hood of the car.

Mac McAuley: You said that in response to the situation you had to use your OC Spray. Could you describe that? At what point did you

Gerry Turner: Well when I had Ms. Smith on the hood of the car, like I said, there was, I couldn't say how many, I would say approximately eight people in a C-shape around me. I was screaming, they were probably within, I'd say, four or five feet of me, screaming, screaming to let her go. A man exited a vehicle on the passenger side, came out of a vehicle yelled hell no and began to run at us. Some people got in his way and attempted to hold him back. I, again, screamed to them to get back. Inaudible whole crowd of people just kind of surrounded us.

Mac McAuley: You said that Ms. Smith initially she did not comply with your requests after she had been placed under arrest?

Gerry Turner: No.

Mac McAuley: Okay. Ultimately, did she allow you to put the handcuffs on her and transport her back to the jail?

Gerry Turner: Yes.

Mac McAuley: At that time, she was charged with Public Profanity.

Gerry Turner: Yes sir.

Mac McAuley: All and all officer, how long did this incident occur inaudible from the time you arrived on the scene until such time as you had successfully placed Ms. Smith here under arrest? What kind of time period are we talking about?

Gerry Turner: I would say about ten or twelve minutes.

Inaudible

Gene Barton: Officer Turner, if you could speak up I am trying to make a recording of this so understand you officer, okay?

Gerry Turner: Okay.

Gene Barton: Sir, how long have you been employed here in Nettleton?

Gerry Turner: 25 months.

Gene Barton: 25 months?

Gerry Turner: Correct.

Gene Barton: Are you certified as a police officer?

Gerry Turner: Yes sir.

Gene Barton: Where did you work before you came to work for Nettleton?

Gerry Turner: I was employed by Shoe Carnival.

Gene Barton: Pardon.

Gerry Turner: Shoe Carnival.

Gene Barton: Alright. So is this your first job as a police officer?

Gerry Turner: No.

Gene Barton: Where did you inaudible as a police officer?

Gerry Turner: Tupelo Police Department, Southaven Police Department.

Gene Barton: When did you work with the Tupelo Police Department?

Gerry Turner: 1998 through 1999.

Gene Barton: Why did you leave it, any particular reason?

Gerry Turner: I left to go to Southhaven.

Gene Barton: You went to work for the Southhaven Police Department.
Who was your supervisor at Tupelo?

Gerry Turner: Who's my chief or who's my direct supervisor?

Gene Barton: Who was your direct supervisor?

Gerry Turner: D.C. Washington when I left.

Gene Barton: Pardon.

Gerry Turner: D.C. Washington when I left.

Gene Barton: Who was is at Southhaven?

Gerry Turner: I don't remember my lieutenant's name there.

Gene Barton: What year did you work at Southhaven?

Gerry Turner: 99 through 2000

Gene Barton: As I understand this, on or about the 22nd day of January you received a call. I'm not trying to put words in your mouth, so you correct me if I've got the facts wrong.

Gerry Turner: Okay.

Gene Barton: You received a call. There was a disturbance at the Dollar General. Is that correct?

Gerry Turner: That's correct.

Gene Barton: Okay. You arrive there. Is it an accurate statement to say that this lady here was not involved in the disturbance?

Gerry Turner: No, I would not say she was involved in the disturbance.

Gene Barton: You have no reason or no evidence to believe that she was

a participant in the fight do you?

Gerry Turner: No.

Gene Barton: Through your investigation did you talk to the owner or the manager of the Dollar General store?

Gerry Turner: I did.

Gene Barton: Did she tell you that Ms. Smith was involved in attempting to break up the fight?

Gerry Turner: No.

Gene Barton: She did not tell you that.

Gerry Turner: No.

Gene Barton: What was the name of the manager?

Gerry Turner: I have no recollection.

Gene Barton: You don't know the name of the manager of the Dollar General store.

Gerry Turner: No.

Gene Barton: Who were the other people present?

Gerry Turner: I don't inaudible.

Gene Barton: Well, when you arrived had, with the assistance of this lady here and the manager of the Dollar General store, had the fight stopped.

Gerry Turner: Yes sir.

Gene Barton: So there was no longer a fight in progress when you arrived.

Gerry Turner: Correct.

Gene Barton: If there had been a fight in progress, you would have made an arrest wouldn't you?

Gerry Turner: If I had witnessed it.

Gene Barton: Yeah, what I'm saying is if there was scuffling, yelling, and screaming when you arrived there would have been an arrest for disturbance of the peace or assault or something to that nature wouldn't there.

Gerry Turner: It's possible.

Gene Barton: Okay. You're telling me that whatever disturbance had occurred, had stopped when you arrived.

Gerry Turner: The physical altercation stopped.

Gene Barton: What you're saying is, in your opinion it was still a tense situation.

Gerry Turner: Correct.

Gene Barton: That's your opinion though, isn't it.

Gerry Turner: That's in my opinion.

Gene Barton: There was no yelling going on at that time was there?

Gerry Turner: No there was still yelling going on at that time.

Gene Barton: Who was yelling?

Gerry Turner: Both parties involved.

Gene Barton: Okay. But there was no yelling by this lady here was there?

Gerry Turner: silence

Gene Barton: Please sure you have to answer. I am making a recording.

Gerry Turner: My answer is no.

Gene Barton: Now, soon there after. First of all, were either of the parties that were in the fight, were they injured?

Gerry Turner: Yes sir.

Gene Barton: What kind of injuries did they have?

Gerry Turner: Superficial wounds, scratches and bruises.

Gene Barton: So it was obvious, well. Were they white or black, or do you recall?

Gerry Turner: They were black.

Gene Barton: They were black. Okay. So it was obvious there had been a fight between were there more than two people or do you know?

Gerry Turner: I think actual altercation inaudible the physical part was just between two people.

Gene Barton: Was it two women?

Gerry Turner: Two women.

Gene Barton: You have already indicated that Ms. Smith was not a party to that inaudible.

Gerry Turner: No.

Gene Barton: If I were to tell you that she participated with the owner of the Dollar General store in breaking up the fight, would you have any reason to believe that.

Gerry Turner: If you say so.

Gene Barton: You have no knowledge to the contrary?

Gerry Turner: No.

Gene Barton: Now, I think if I understand the problem here, is at some point Ms. Smith approached you and asked you were not going to make an arrest due to this situation. Is that sort of what happened, or if it is not, tell me.

Gerry Turner: That's what happened.

Gene Barton: Okay. So she came forward and asked you, there has been a disturbance and a fight here, there has obviously been a

plead that this way she did not expect your explanation and disagreed what you said about an Affidavit.

Mac McAuley: Can I please point out and object to that. I think that calls for this officer to speculate as to her state of mind.

Judge Hood: I agree.

Gene Barton: I'll rephrase the question if it pleases the Court. Would it be an accurate statement to say that from your stand point, at least your observation you and her were not communicating, or she was hearing what you were saying.

Gerry Turner: I don't think she liked what I was saying. She didn't like my resolution of the problem.

Gene Barton: Okay. But essentially she made the statement, something to the effect I was wondering why the other girl could not file charges. Did she make a statement to that effect?

Gerry Turner: I don't remember that statement.

Gene Barton: Well tell me specifically Officer Turner, what do you remember that she did say other than what you quoted in the Affidavit. Tell me everything you remember she said.

Gerry Turner: She asked was I going to arrest someone. I said no. She said why not. I told her because I didn't witness anything. Again she said I don't understand why you can't arrest someone. I told her that I was going to explain to her what an Affidavit is. She told me she didn't need me to explain to her what an affidavit is. She works for the State and already knew what an Affidavit is. I think the next statement was a profanity after that.

Gene Barton: At that point when she used the word s-h-i-t was the phraseology something to the effect of " You do not really have to tell me that s-h-i-t" or something like that? What exactly did she say? I want to know the exact words she used.

Gerry Turner: She said, "You ain't got to explain shit to me."

Gene Barton: Was that in a moderate tone of voice or a loud tone of voice?

Gerry Turner: I would say loud.

Gene Barton: Your testimony would be that the other witnesses would verify this was a loud tone of voice.

Gerry Turner: That would be my testimony.

Gene Barton: Did she have her children present with her?

Gerry Turner: If that was her children. There was so many people I couldn't say.

Gene Barton: Was there a fourteen year old child present?

Gerry Turner: It's possible.

Gene Barton: Were there other children present?

Gerry Turner: Yes.

Gene Barton: Now I want to be sure, at this stage after you have related. Is there anything else she said that you can recall?

Gerry Turner: Not to my recollection.

Gene Barton: You can't recall anything else she said. Is there anything else she did to provoke a disturbance.

Gerry Turner: I'd say no sir.

Gene Barton: She didn't do anything did she?

Gerry Turner: Other than resist arrest.

Gene Barton: You're telling today that she resisted arrest but at the time this occurred you did not observe anything prior to saying you're going to be arrested that would provoke a disturbance did she?

Gerry Turner: Inaudible.

Gene Barton: It's either a yes or no. Did she do something to cause a disturbance

Mac McAuley: I object to that being argumentative.

Gene Barton: I'm not trying to argue Judge. I'm just trying to ask a question. Either she did or she didn't. Did she do anything to cause a disturbance?

Gerry Turner: I guess that would be a matter of opinion.

Gene Barton: Well what did she do if you think she did something?

Gerry Turner: Well in the middle of a tense situation she was already coming over questioning me, being verbal right in the middle of inaudible altercation and then using profanity.

Gene Barton: Now Officer Turner have you ever in the City of Nettleton or in any job heard a person use s-h-i-t in public?

Gerry Turner: Yes I have.

Gene Barton: Have you charged all these people with profanity?

Gerry Turner: Sure haven't.

Gene Barton: You have not have you?

Gerry Turner: Sure haven't.

Gene Barton: Have you ever charged anybody with the use of this word as profanity?

Gerry Turner: Yes I have.

Gene Barton: Where?

Gerry Turner: I would say I have numerous times.

Gene Barton: In this City of Nettleton?

Gerry Turner: I don't believe I have that particular word in this City. But have in other cities.

Gene Barton: But in the City of Nettleton you never have, have you?

Gerry Turner: I couldn't say for certain.

Gene Barton: What city have you?

Gerry Turner: Tupelo.

Gene Barton: Now at this point when she used that word, were you already agitated or irritated at her because she wouldn't accept your explanation about the Affidavit? Would that be a fair statement, you were kind of aggravated at her?

Gerry Turner: I was agitated at everyone out there: inaudible their behaviors.

Gene Barton: You were agitated at everybody weren't you?

Gerry Turner: That's correct.

Gene Barton: Thank you sir. In other words, to put it nicely, you were pretty excited, with the situation, there had been a fight, you were tense yourself weren't you?

Gerry Turner: That's correct.

Gene Barton: Then, to also be honest about it, you got kind of mad at this lady when she wouldn't accept this explanation didn't you?

Gerry Turner: I wouldn't say mad.

Gene Barton: You were angry weren't you?

Gerry Turner: I was tense.

Gene Barton: You were angry weren't you.

Gerry Turner: If you say so.

Gene Barton: Were you? I'm asking you?

Gerry Turner: No I was not angry.

Gene Barton: You were not angry. You were just aggravated. You're nodding your head. Does that mean yes sir?

Gerry Turner: Yes sir.

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Gene Barton: Now at that point did you tell her to put her hands up on the car, that she was under arrest?

Gerry Turner: No.

Gene Barton: At what point did you do that?

Gerry Turner: I told her she was under arrest, and as I went toward her she went backwards.

Gene Barton: And at what point after did you tell her to put her hands up and be handcuffed?

Gerry Turner: I guess when I told her she was under arrest I grabbed the handcuffs, I mean her hands, and she tried to get away from me.

Gene Barton: But now, you did not see, at any time, evidence that she resisted arrest did you?

Gerry Turner: Yes.

Gene Barton: But you did not charge her with that at that time did you?

Gerry Turner: I did not.

Gene Barton: And if she had, you were already upset about whether to charge profanity, if she had done something to resist arrest you would have charged her with that also, wouldn't you?

Gerry Turner: No.

Gene Barton: You wouldn't have?

Gerry Turner: The reason I did not charge her with resisting arrest is because I'm quite a bit larger than this lady and a lot physically stronger. If I had had a huge physical altercation with her, I would have. But also, she was very quiet after the fact so I let her slide on resisting arrest because that is a huge fine.

Gene Barton: She was quiet after the fact.

Gerry Turner: After the fact.

Gene Barton: Did you find this lady, after the incident ended, to be a nice lady?

Gerry Turner: I sure did.

Gene Barton: So in other words, if I were to tell you today that the facts are that she was at the Dollar General, she broke up the fight, and she was there as an observer, and couldn't understand why an arrest couldn't be made. She got upset when you put her under arrest, and when everybody calmed down you found her to actually be a nice person.

Mac McAuley: Judge I object to that. I think it is a compound question. I think there were five or six questions in that. Also, it is assuming facts that are not in evidence.

Gene Barton: I'll rephrase is Judge. Your brief response was that after she was put under arrest she was polite at all times.

Gerry Turner: Correct.

Gene Barton: In fact, initially you were going to take her Tupelo and because she was so nice you allowed her to make bond here in Nettleton. Is that correct?

Gerry Turner: That is correct.

Gene Barton: Now is it true that at the time you put the handcuffs on her that some of these children started screaming hysterically?

Gerry Turner: Correct.

Gene Barton: That is correct isn't it?

Gerry Turner: It is.

Gene Barton: Did you later find out that some of these children were either her children or her sister's children or relatives' children?

Gerry Turner: I believe that's right.

Gene Barton: So her child, who was with her, saw his mother being handcuffed and the child got hysterical didn't he? What did the child do?